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INCOMING
TELEGRAM

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INFO OCT-01 ARA-11 ADS-00 CIAE-00 INR-10 NSAE-00 ICA-11
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R 141324Z SEP 79
FM AMCONSUL RIO DE JANEIRO
TO SECSTATE WASHDC 8150
INFO AMEMBASSY BRASILIA
AMCONSUL SAO PAULO

PT
Brazil

~~LIMITED OFFICIAL USE~~ RIO DE JANEIRO 3834

E. O. 12065: N/A

TAGS: SHUM, BR

SUBJECT: RIO JUDGE CHARGES POLICE WITH MURDER OF PRISONER

REF: BRASILIA 6243

1. REFTEL REPORTED THAT PRESIDENT FIGUEIREDO HAD RECOMMENDED IN EARLY JULY THAT THE RIO DE JANEIRO STATE SECRETARY OF SECURITY CLARIFY CIRCUMSTANCES SURROUNDING THE DEATH IN JUNE OF A COMMON LABORER, AEZIO DA SILVA FONSECA, WHILE IN THE CUSTODY OF RIO POLICE. AEZIO'S DEATH, ATTRIBUTED TO SUICIDE, HAD BECOME SOMETHING OF A CAUSE CELEBRE IN THE RIO PRESS PRIOR TO THE PRESIDENT'S DECISION.

2. ON AUGUST 8, POLICE INVESTIGATIONS WERE COMPLETED WITH THE CONCLUSION THAT AEZIO HAD SUFFERED "A VIOLENT DEATH, UNDERTAKEN BY HANGING -- WITH THE EXPERTS NOT HAVING FOUND ANYTHING WHICH MIGHT INDICATE DEATH WAS NOT BY SUICIDE BY HANGING." IT WAS RECOMMENDED THAT SIX POLICEMEN INVOLVED IN THE CASE BE PUNISHED FOR ABUSE OF AUTHORITY. ON AUGUST 13, THE STATE PROSECUTOR APPOINTED TO HANDLE THE MATTER RENDERED HIS FINDING THAT AEZIO COMMITTED SUICIDE AND RECOMMENDED THAT THE SIX POLICE BE CHARGED WITH HAVING COMMITTED BODILY HARM TO AEZIO WHILE HE HAD BEEN IN THEIR CUSTODY (THE AUTOPSY HAD SHOWN TWO BROKEN RIBS). THE STATE PROSECUTOR FURTHER REQUESTED THAT SINCE THE CASE DID NOT INVOLVE MURDER IT BE CONSIDERED BY ONE OF THOSE COURTS COMPETENT TO HANDLE THE LESSER OFFENSE OF BODILY HARM WHICH HE HAD CONCLUDED HAD BEEN COMMITTED. HOWEVER, THE JUDGE (MELIC URDAN) OF THE COURT WHICH CONSIDERS MURDER CASES REJECTED THIS RECOMMENDATION AND INITIATED HIS OWN INVESTIGATION INTO THE CASE.

3. ON SEPTEMBER 10, THE JUDGE DISCLOSED HIS FINDINGS BEFORE A LARGE GROUP OF LAWYERS AND OTHERS WHO HAD GATHERED IN HIS COURT. HE FOUND THAT IT WAS A PHYSICAL IMPOSSIBILITY FOR AEZIO TO HAVE COMMITTED SUICIDE AND NOTED THAT THERE WERE NO PSYCHOLOGICAL REASONS FOR HIM TO HAVE DONE SO. THE JUDGE ASKED THAT STATE JUSTICE SECRETARIAT PRESENT INDICTMENTS AGAINST THE SIX POLICE INVOLVED WITHIN A PERIOD OF EIGHT DAYS. THE JUDGE'S DECISION WAS WIDELY APPLAUDED IN THE PRESS AND AMONG LEGAL CIRCLES.

4. COMMENT: STATE AND SENIOR POLICE OFFICIALS HAVE NOT RE-ACTED PUBLICLY TO JUDGE URDAN'S FINDINGS ALTHOUGH THE PROSECUTOR NOT UNEXPECTEDLY WAS STRONGLY NEGATIVE AND HAS ALREADY ATTEMPTED LEGAL MANEUVERS TO AVOID COMPLIANCE WITH HIS REQUEST FOR INDICTMENTS. ONE PROMINENT CIVIL RIGHTS ATTORNEY WAS HIGHLY CRITICAL OF THE PROSECUTOR'S ATTEMPTED "COVER-UP" IN A CONVERSATION WITH CONGEN POLOFF. THE SIGNIFICANCE OF THIS CASE LIES IN THE ASSERTION OF INDEPENDENCE BY JUDGE URDAN AGAINST WHAT MUST HAVE BEEN STRONG PRESSURES FROM THE STATE'S POLICE APPARATUS TO PROTECT ITS OFFICIALS. EVEN THOUGH THIS CASE HAS ATTRACTED INTENSE PRESS INTEREST, VARIOUS LEGAL OPTIONS AVAILABLE TO THE POLICE INVOLVED WILL PROBABLY PRECLUDE ANY EARLY RESOLUTION OF THIS MATTER.
DEWITT

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